



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,690	11/13/2001	Jon W. Roeder	20005.14	5894

7590 03/12/2003

The Law Office of Steven G. Roeder
5560 Chelsea Avenue
La Jolla, CA 92037

EXAMINER

HARRIS, STEPHANIE N

ART UNIT

PAPER NUMBER

3636

DATE MAILED: 03/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/992,690

Applicant(s)

ROLEDER ET AL.

Examiner

Stephanie N. Harris

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 16,17 and 31 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-25 is/are allowed.
- 6) ☒ Claim(s) 1-6,12-15 and 26-29 is/are rejected.
- 7) ☒ Claim(s) 7-11 and 30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 January 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

The traversal is on the ground(s) that “the search and examination of the entire application could be made without serious burden” on the examiner. This is not found persuasive because the applicant has specifically claimed multiple and detailed embodiments of the claimed invention which in themselves require specific searches, i.e. a second positioning mechanism. The applicant however, may positively state that the embodiments are “obvious variances of one another” and the entire application would be searched at that time. The applicant is reminded that if one embodiment is found by the examiner then all embodiments would be rejected as obvious variances of one another. Accordingly claims 16, 17, and 31 are withdrawn from consideration.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 12-15, 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gillotti (USPN 5762402).

Regarding claim 1, a massage chair comprising a seat (38) and a front upper support assembly (11) coupled to the seat, and a first support surface (33) as seen in Figure 1. A first positioning mechanism (35) movably secures the first support surface to

the front upper support assembly. The first positioning mechanism includes a guide rail (46) that is coupled to the upper support assembly (11) as seen in Figure 6. A clamping assembly is coupled to the first support surface (33) as seen in Figure 6. The clamping assembly (35) selectively moves between a locked position that inhibits movement of the first support surface (33) relative to the clamping assembly and an unlocked position that allows rotation of the first support surface (33) relative to the front upper support assembly (11) and sliding of the first support surface (33) relative to the front upper support assembly (11) as seen in Figures 1 and 6 (Col. 4, lines 63-67).

Regarding claim 2, the guide rail (46) has a longitudinal axis and the clamping assembly (35) includes a rotational axis that is substantially perpendicular to the longitudinal axis, which can be seen by directional arrows 29 and 70 as seen in Figure 1. In the unlocked position, the first support surface can rotate around the rotational axis and slide along the longitudinal axis.

Regarding claims 3 and 4, the guide rail has a substantially square and diamond cross section as seen in Figures 1 and 6.

Regarding claim 5, the clamping assembly includes a clamp pin (50) having a first pin end and an opposing second pin end. The clamping assembly also includes a guide receiver (34) that can be positioned near the first pin end. The guide receiver moves selectively between the locked and unlocked position (col. 4, lines 49-67).

Regarding claim 6, the clamping assembly includes a second guide receiver (34) that is positioned near the second pin (50) end as seen in Figure 6.

Regarding claim 12, the first positioning mechanism includes a locking lever (51) that can move the guide receivers (34) between the locked position and the unlocked position as seen in Figure 6.

Regarding claim 13, the positioning mechanism does not include more than one guide rail (46) as seen in Figure 6.

Regarding claims 14 and 15, the first support surface can be used as a chest support and a head support.

Gillotti discloses the claimed invention except for the guide rail being coupled to the support surface and the clamping assembly being coupled to the upper support assembly. It would have been obvious to one having ordinary skill in the art at the time the invention was made to couple the guide rail being to the support surface and to couple the clamping assembly to the upper support assembly, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

Regarding claims 26-29, Gillotti discloses all of the claimed structure of the instant invention. Gillotti lacks only the specifically recited method steps.

It would have been obvious, if not inherent, to one having ordinary skill in the pertinent art at the time of the invention to use the massage chair of Gillotti by the claimed method steps. Such a modification provides a conventional and efficient method of using the device of Gillotti.

Allowable Subject Matter

Claims 7, 8, 9, 10, 11, and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 18-25 are allowed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to massage chairs: U.S. Pat. No. 3227414 to Dean, U.S. Pat. No. 5961179 to Dixon et al., U.S. Pat. No. 5971485 to Clark, U.S. Pat. No. 6065808 to Tinsley, U.S. Pat. No. 4589699 to Dungan, U.S. Pat. No. 6397414 to Lloyd, U.S. Pat. No. 5401078 to Riach, U.S. Pat. No. 5427436 to Lloyd, U.S. Pat. No. 5177823 to Riach, and U.S. Pat. No. 6412738 to Bressler et al.

Art Unit: 3636


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie N. Harris whose telephone number is 703-305-1838. The examiner can normally be reached on Monday-Friday from 9am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo, can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

SNH

March 3, 2003


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600